IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 23RD MAY 2007 / 2ND JYAISHTA 1929

WP(C).No. 17738 of 2006(J)

PETITIONER:

JAHAFER T.P.
ASSISTANT ENGINEER, PUBLIC WORKS DEPARTMENT,
SPECIAL BUILDINGS SECTION NO.3. CALICUT.

BY ADV. SRI.M.POLY MATHAI
SRI.P.CHELLAPPAN

RESPONDENTS:

1. **THE STATE OF KERALA, REPRESENTED BY**
   ITS SECRETARY, P.W.D. TRIVANDRUM.

2. **THE CHIEF ENGINEER(ADMN),**
   P.W.D. TRIVANDRUM.

3. **THE SUPERINTENDENT ENGINEER,**
   P.W.D. BUILDINGS AND LOCAL WORKS,
   NORTHCIRCLE, KOZHIKODE.

4. **THE CONVENOR,**
   DEPARTMENTAL PROMOTION COMMITTEE (HIGHER),
   THE SECRETARY TO GOVERNMENT, P.W.D. SECRETARIAT
   THIRUVANANTHAPURAM.

5. **U.HASAN,**
   ASSISTANT EXECUTIVE ENGINEER(TECH.)
   P.W.D. ROADS DIVISION, MANJERI.

6. **M.C.VINOD KUMAR,**
   ASSISTANT EXECUTIVE ENGINEER,P.W.D. ROAD
   SUB DIVISION, KOYILANDY.

7. **V.C.JOHNNY,**
   ASST.EXECUTIVE ENGINEER,
   NATIONAL HIGHWAY QUALITY CONTROL,
   THRISSUR.

8. OMMEN.C.VENGAL,
PROJECT ENGINEER, KERALA STATE,
CONSTRUCTION CORPORATION, KOTTAYAM.

9. A.J.ABDUL NAZAR,
ASST.EXECUTIVE ENGINEER,
P.P.U.OFFICE OF THE CHIEF ENGINEER,
N.H.TRIVANDRUM.

10. T.S.RAVEENDRA NATHAN,
ASST.EXEVUCTIVE ENGINEER, I.T.CELL,
OFFICE OF ENGINEER, TRIVANDRUM.

BY ADV. SRI.ALEXANDER GEORGE R5 TO 10
GOVERNMENT PLEADER SMT. M.R.SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/05/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 17738/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE LETTER DT. 4/12/2004 FROM THE R3 TO R2.

EXT.P2. COPY OF THE GOVT. ORDER GO (MS) NO. 31/05/)WD DT. 25/5/2005 OF THE GOVT. OF KERALA.

EXT.P3. COPY OF THE JUDMENT IN WPC NO. 19722/2005 DT. 1/7/2005 OF THIS COURT.

EXT.P4. COPY OF THE LETTER DT. 28/11/2005 FROM THE R2 TO R3.

EXT.P5. COPY OF THE LETTER DT. 30/11/2005 TO THE R2.

EXT.P6. COPY OF THE ORDER GO RT NO. 374/2006/PWD DT. 22/5/2006 OF GOVT. OF KERALA.

EXT.P7. COPY OF THE CIRCULAR DT. 28/1/2004 BY R2.

EXT.P8. COPY OF THE ORDER DT. 22/09/2006 OF THE GOVT.

True copy

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K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 17738 OF 2006-J

JUDGMENT

The petitioner was aggrieved by the select list of officers approved by the Government for promotion to the category of Assistant Executive Engineers (Civil) in the Public Works Department for the year 2005. Ext.P2 dated 25.5.2005 is the said list. The petitioner's claim for inclusion in the said list was not considered for the reason that his annual confidential reports were not available when the D.P.C met. The aggrieved petitioner filed a statutory representation against the said list. Pursuant to the direction of this Court in Ext.P3 judgment, the Government considered the representation and rejected it. The reason for non-consideration of the claim of the petitioner was the non-receipt of his confidential reports in time. The petitioner submits, he is not responsible for the delay in the submission of the confidential reports. The reporting officer was bound to forward the same in time. Therefore, he should not be penalised. So, he seeks to quash Ext.P2 D.P.C list to the extent it adversely affects him and Ext.P6 order of the Government.

2. I heard the learned Government Pleader for the official respondents and the learned counsel for the party respondents.

3. I feel that the petitioner's claim cannot be overlooked for the reason that his controlling officer failed to forward the confidential reports in time to the D.P.C. It is true, the petitioner has been subsequently promoted by Ext.P8 order. But, his claim for inclusion in the select list for the year 2005 has to be considered by the D.P.C by holding a review meeting. It is common case that the confidential reports of the petitioner have been received after the original meeting of the D.P.C. Accordingly the Writ Petition is disposed of, directing the 4th respondent to hold a review D.P.C and consider the claim of the petitioner for inclusion in Ext.P2 list in accordance with law within three months from the date of production of a copy of this judgment.

23rd May, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/